IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

WP(C).No. 10519 of 2007(B)

PETITIONER:
----

1. **METHALE KOROTH DEVAKI, CHOOLIL HOUSE, THOTTADA P.O., EDAKKAVU AMSOM, CHALA 12 KANDY, KANNUR.**

2. **T.K.VINODINI, KOODACHAL HOUSE, THOTTADA P.O., EDAKKADU AMSOM, CHALA 12 KANDY, KANNUR.**

3. **KAIPRATH KATTERI MUKUNDAN, KATTERI HOUSE, THOTTADA P.O., EDAKKADU AMSOM CHALA 23 KANDY, KANNUR.**

4. **PALOLI JAYADEVAN, JAYA NIVAS, NEAR I.T.I., THOTTADA P.O., EDAKKADU DESOM, CHALA 12 KANDY, KANNUR.**

5. **PUTHEN PYRAYIL KRISHNAN, PUTHENPURAYIL HOUSE, THOTTADA P.O., EDAKKADU AMSOM, CHALA 12 KANDY, KANNUR.**

6. **KOOLIYAKKAL PUSHPA, KARAYI HOUSE, THOTTADA P.O., EDAKKADU DESOM, CHALA 12 KANDY, KANNUR.**

7. **P.OMANA AMMA, PUTHIYAKANDY HOUSE, THOTTADA P.O., CHALA 12 KANDY, KANNUR.**

8. **METHALE KOROTH KAMAL, CHOOLIL HOUSE, THOTTADA P.O., EDAKKADU AMSOM, CHALA 12 KANDY, KANNUR.**

9. **KARAYI JANAKI, KARAYI HOUSE, THOTTADA P.O., EDAKKADU AMSOM, CHALA 12 KANDY, KANNUR.**

10. P.P.NARAYANAN, MADATHIL HOUSE,
THOTTADA P.O., EDAKKADU AMSOM,
CHALA 12 KANDY, KANNUR.

BY ADV. SRI.SERGI JOSEPH THOMAS

RESPONDENTS:
----

1. THE DISTRICT COLLECTOR, KANNUR.

2. THE SPECIAL TAHSILDAR,
LAND ACQUISITION, RAILWAY, KANNUR.

BY GOVERNMENT PLEADER L.G.SURESH BABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

Ext.P1(a) P1(b) P1(c) P1(d) P1(e) P1(f)P1(g) P1(h) P1(i) P1(j):True copies of Award Notice dated 27.3.2000 passed by the 2nd respondent to the petitioners 1 to 10

Ext.P2(a) P2(b) P2(c) P2(d) P2(e) P2(f)P2(g) P2(h) P2(i) P2(j): True copies of the Sec.18 application dated 3.5.2000 filed by the petitioners before the 2nd respondent

Ext.P3(a) P3(b) P3(c) P3(d) P3(e) P3(f)P3(g) P3(h) P3(i) P3(j): True copies of the communication dated 23.08.2001 issued to the petitioners 1 to 10

Ext.P4(a) P4(b) P4(c) P4(d) P4(e) P4(f)P4(g) P4(h) P4(i) P4(j): True copies of the petitions sent to the 2nd respondent on 20-10-2001 by the petitioners.

Ext.P5(a) P5(b) P5(c) P5(d) P5(e) P5(f)P5(g) P5(h) P5(i) P5(j): True copies of the petition dated 10-07-2006 submitted by the petitioners before the 2nd respondent

Ext.P6 (a) P5(b) P5(c) P5(d) P5(e) P5(f)P5(g) P5(h) P5(i) P5(j):True copies of communication dated 27.11.2006 sent by the 2nd respondent to the petitioners.

//True copy//

es

K.PADMANABHAN NAIR, J.

W.P.(C) No. 10519 of 2007

Dated this the 21st day of August 2007

JUDGMENT

The land owned by of the petitioners acquired for a public purpose. An award was passed and the petitioners received 'D form' cheques also. They had filed petitions under Section 18 of the L.A.Act to refer the matter to the competent Sub court for considering their claim for enhancement of compensation. Those applications were filed on 3-5-2000 & 2-5-2000 respectively i.e within 9 days from the date of receipt of the compensation amount. Those applications were rejected on the ground that at the time of receiving the 'D form' cheques no protest was raised by the petitioners. According to the petitioners though they received the 'D form' cheques after raising oral protest they were not permitted to make any endorsement on the counterfoil of the cheque It is settled law that even an written protest is not raised, an oral protest can also be considered as a valid protest. Since the applications were filed within 9 days from the date of receipt of the amount. The stand of the Special Tahsildar (L.A) that the petitioners received the compensation amount without any protest cannot be accepted. So the rejection of the petitions filed by the petitioners before the Special Tahsildar, (L. A) is illegal and liable to be set aside.

In the result, the writ petition is allowed in part. The order passed by

the Special Tahsilar (LA) Railway Kannur rejecting Ext.P2series petitions filed by the petitioners and Ext.P3 series orders and Ext.P6 series orders are hereby quashed. The Special Tahsildar (L.A) is directed to consider those Ext.P2 series applications and to refer the matter to the competent Sub court for considering the claim of enhancement put forward by the petitioners.

K.PADMANABHAN NAIR,JUDGE

es